UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AYANA SIMMONS, individually and on behalf of THE ESTATE OF IDRISSA CAMARA, AISHA CAMARA, MOUSSA CAMARA, AND DJENEBA CAMARA,

Plaintiff,

-against-

THE UNITED STATES OF AMERICA,

Defendant.

No. 17 Civ. 1058

COMPLAINT

Non-jury trial pursuant to 28 U.S.C. § 2402

Plaintiff Ayana Simmons, individually, as Administratrix of the Estate of Idrissa Camara, and on behalf of Aisha Camara, Moussa Camara, and Djeneba Camara, by and through her attorneys Emery Celli Brinckerhoff & Abady LLP, for her Complaint alleges as follows:

PRELIMINARY STATEMENT

1. This case seeks compensation for things that will never be fully compensable. A cold pillow on one side of the bed. A voice missing from the sidelines of a boy's basketball game. A daughter's cry for her daddy when other fathers pick her classmates up from pre-school. Ayana Simmons has lost her husband. Her three children, Aisha, Moussa, and Djeneba, have lost their father. Nothing can change that fact or take away their pain.

2. But that does not mean that there cannot be justice. Ms. Simmons brings this action to hold accountable the government agencies that directly caused her husband's death by callously and recklessly disregarding known and obvious risks to his safety. With utter indifference to his life and safety, these agencies exposed him to a clear, grave, and known

danger without as much as a warning. And when that danger showed up, Idrissa Camara was helpless.

3. Mr. Camara was killed on August 21, 2015 while working as a security guard at 201 Varick Street, a federal office building in downtown Manhattan. Though his shift was scheduled to end at 4:00 p.m., he agreed to stay an extra hour to cover an open shift because a friend needed the time off. At around 5:00 p.m., a man named Kevin Downing walked into the building, approached the security checkpoint, and shot Mr. Camara in the head. Mr. Downing then proceeded past the security checkpoint to the elevator bank, where he shot himself in the head, ending his life in a suicide.

4. Kevin Downing was a well-known danger to 201 Varick Street. A disgruntled and mentally unstable former employee of the Unites States Department of Labor (USDOL), Mr. Downing had made specific threats against USDOL and its employees who work at 201 Varick Street. The threats were so serious that USDOL and the Governmental Services Administration (GSA) decided to post an extra security guard outside of USDOL's offices on the 8th floor of the building.

5. But Mr. Camara—who was posted at a ground floor security checkpoint, and whose primary job responsibility was to protect the building—was *never warned* of the threat. Neither USDOL nor GSA ever mentioned Kevin Downing to Mr. Camara, or to any other security guard posted at a ground floor checkpoint. They never gave him or any other security guard on that post a photo or a description of Mr. Downing. They did not even instruct Mr. Camara's security firm, FJC Security Services, Inc. ("FJC") to warn him or the other security guards. Because these agencies recklessly and callously disregarded Mr. Camara's life

and safety, he was unknowing and defenseless when Mr. Downing walked into 201 Varick Street that day with a gun – and he died as a result.

6. Mr. Camara's death was entirely preventable, but USDOL and GSA did nothing to prevent it. They are responsible for his death, and now they must be accountable to the wife and children he left behind for the devastating loss caused by their actions.

JURISDICTION AND VENUE

7. This action arises under the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.*

8. The jurisdiction of this Court is predicated upon 28 U.S.C. § 1346(b)(1).

9. The acts complained of occurred in New York County, New York, in the Southern District of New York, and venue is lodged in this Court pursuant to 28 U.S.C. § 1391(b).

PARTIES

10. At all relevant times, Ayana Simmons, the Administratrix of the Estate of Idrissa Camara, has resided in New York, New York. Ms. Simmons is the wife of Mr. Camara. Aisha Camara, Moussa Camara, and Djeneba Camara are the children of Ms. Simmons and Mr. Camara. At the time of his death, Mr. Camara resided in New York, New York.

11. Upon information and belief, and all relevant times, the Department of Labor and the General Services Administration were agencies or departments of Defendant United States of America.

STATEMENT OF FACTS

Idrissa Camara

12. Idrissa Camara was born on October 6, 1961 in Korhogo, Ivory Coast.

13. In 1991, Mr. Camara moved to the United States and settled in Brooklyn, New York, where he began working as a messenger. Within a couple of months, Mr. Camara became a professional driver, working in livery cars, yellow cabs, and as a limousine chauffeur.

14. In 1993, Mr. Camara met his wife, Ayana Simmons. They married in 1995, and had a daughter, Aisha Camara, in 1996. A year later, Mr. Camara and Ms. Simmons moved to Manhattan and had a son, Moussa Camara. In 2013, the couple had a third child, a daughter, named Djeneba Camara.

15. Mr. Camara was always a loving and supportive husband and father. He never missed Moussa's basketball games and loved to watch Aisha's chess matches. He and Djeneba had a nightly ritual in which she would lay with him while he watched Wheel of Fortune and Jeopardy, and then he would put her to sleep in her crib.

16. Mr. Camara was a quiet and private man who had few personal conflicts. He worked hard and long hours to provide for his family. He loved his wife and children deeply. He was the rock of their family.

Mr. Camara's Employment at 201 Varick Street

17. After the tragedy of September 11, 2001, Mr. Camara decided that he would stop working as a driver and find a job that would allow him to help protect the people of New York. In October 2001, he obtained his certification to work as a security guard and was hired by H.W.A. Security, Inc. His first security posts were in Ann Taylor stores and other retail stores around the City.

18. At some point thereafter, Mr. Camara was hired by FJC as a Professional Security Officer and posted at the lobby checkpoint of 201 Varick Street, a federal office building in lower Manhattan that is operated by the GSA.

19. 201 Varick Street houses the New York offices of various federal agencies, including the USDOL.

20. Mr. Camara's regular hours at 201 Varick Street were Monday to Friday from 8:00 a.m. to 4:00 p.m. In addition, Mr. Camara regularly worked overtime shifts, including nights and weekends, to provide extra income for his family.

The Known Threat Against 201 Varick Street and the Department of Labor

21. In January 1999, an individual named Kevin Downing began a term appointment as an economist in the New York Office of the Bureau of Labor Statistics, a division of USDOL. Between February 1999 and October 1999, Downing allegedly informed certain members of Congress that USDOL's plan to consolidate regional New York and Boston offices violated the law and constituted a gross mismanagement of funds.

22. On November 29, 1999, Downing was fired by USDOL. The termination took place during the one-year trial period of his appointment, and the stated reason was "significantly less than satisfactory" work performance and conduct.

23. Downing contested his termination as a violation of the Whistleblower Protection Act. The case dragged on for years. Merit Systems Protection Board, the government agency that oversees federal workforce issues, determined that Downing failed to make any non-frivolous allegations that he had made any disclosures warranting protection under the Whistleblower Protection Act. It dismissed his claim. In 2006, the Federal Circuit Court of Appeals agreed and affirmed the decision.

24. For years after the final adjudication of his case in 2006, Downing continued to aggressively and publicly contest his termination from USDOL. Among other things, he (1) solicited the National Taxpayers Union (a group that protests wasteful government

spending) to write about his case; (2) started a petition on change.org recounting his claims and requesting reinstatement with the USDOL and damages; (3) contacted his local congressional office for assistance; and (4) persistently called various news media outlets to report on his case, including the Bergen Record.

25. Over time, Downing became increasingly frustrated and angry with USDOL. Indeed, Downing began to make specific and repeated threats of violence against USDOL, including its employees working at 201 Varick Street.

26. Downing's threats of violence against USDOL and its employees put USDOL on notice that Downing posed a grave danger to USDOL employees and anyone else working at 201 Varick Street.

27. In response to Downing's threats to USDOL and its employees, USDOL and/or GSA requested that FJC create and staff an extra, additional security post outside of USDOL's office on the 8th floor of 201 Varick Street, in the vicinity of Room 878.

28. Following the request, and in response to the known threat that Mr. Downing posted, an FJC-employed security guard was posted, full time, outside USDOL's office on the 8th floor of 201 Varick Street, in the vicinity of Room 878.

29. Despite actual knowledge of threats of violence against USDOL and its employees at 201 Varick Street, USDOL and/or GSA never notified Mr. Camara or any other lobby security guard of the threat that Mr. Downing posed.

30. Neither GSA nor USDOL told Mr. Camara that any threat relating to Mr. Downing existed, nor did they tell him about the new security post outside USDOL offices. They did not provide him with any photo or description of Mr. Downing, or in any way indicate that Mr. Camara should be on alert for him.

31. Upon information and belief, neither GSA nor USDOL directed FJC to warn Mr. Camara about Mr. Downing, or to take any additional precautions to ensure his safety.

32. The reckless and conscious disregard of the obvious and known safety threat posed by Mr. Downing is the proximate cause of Mr. Camara's death.

Mr. Camara's Untimely Death

33. On August 21, 2015, Mr. Camara was working his regular shift at 201 Varick Street. Though his shift was scheduled to end at 4:00 p.m., he agreed to stay and work an extra hour to cover an open shift as a favor to a friend.

34. At approximately 5:00 p.m., Mr. Downing entered 201 Varick Street. Mr. Downing was carrying a bag with one or more guns inside.

35. At the time that Mr. Downing entered the building, Mr. Camara was stationed on the ground floor, at the lobby security checkpoint, armed and in uniform, as was his duty.

36. As Mr. Downing approached the security checkpoint, he reached into his bag without warning, pulled out a gun, and shot Mr. Camara at close range in the face.

37. After shooting Mr. Camara, Mr. Downing proceeded to walk through the metal detectors to the building's elevator. There, he shot himself in the head, ending his life in a suicide.

38. Mr. Camara was rushed to Lenox Hill HealthPlex, where he was pronounced dead at 5:55 p.m. on August 21, 2015.

39. The reckless and negligent failure by GSA/USDOL to inform Mr. Camara about the threat posed by Mr. Downing, and/or to direct FJC to inform him of such threat, was the proximate cause of Mr. Camara's death.

40. Had Mr. Camara been warned about Mr. Downing, and given information about his appearance and threats, he could have defended himself, used his firearm, and otherwise avoided being victimized by Mr. Downing.

41. Mr. Camara's death has devastated his surviving wife and three children, who long every day for his comfort, presence, and support in their lives.

Administrative Filing

42. Ms. Simmons was appointed Administratix of Mr. Camara's estate by the Surrogate's Court of the State of New York, New York County, on October 20, 2015.

43. On June 7, 2016, within two years of Mr. Camara's death, Ms. Simmons served upon the USDOL a claim including a Standard Form 95 and exhibits. On August 16, 2016, Claims Counsel for the USDOL confirmed receipt of Ms. Simmons' claim.

44. On December 7, 2016, sixth months following the submission of Ms. Simmons' claim, Claims Counsel for the USDOL informed Ms. Simmons, through her counsel, that her claim was still being investigated. As of the date of this Complaint, Defendant has made no attempt to settle or resolve this claim.

FIRST CLAIM FOR RELIEF
Wrongful Death

45. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

46. Idrissa Camara died on August 21, 2015.

47. Mr. Camara's death was caused by the negligent, careless, and reckless acts and omissions of Defendant and/or its agents, servants, representatives, and employees.

48. As a result of the negligent, careless, and reckless acts and omissions of Defendant and/or its agents, servants, representatives, and employees, including their reckless

and conscious disregard of the obvious and known safety threat posed by Mr. Downing, Mr. Camara and his statutory distributees were deprived of his future earnings and services, and sustained pecuniary and non-economic loss resulting from the loss of his love, comfort, society, attention, services, and support.

49. As a result of the negligent, careless, and reckless acts and omissions of Defendant and/or its agents, servants, representatives, and employees, including their reckless and conscious disregard of the obvious and known safety threat posed by Mr. Downing, Mr. Camara's three children lost the parental nurture and care of their father, and his wife lost the comfort, society, and attention of her husband.

50. By reason of the loss of Mr. Camara's love, comfort, society, attention, services, and support, damages are claimed.

51. Mr. Camara would have had a cause of action for personal injuries sustained had death not ensued.

52. Article 16 of the Civil Practice Law and Rules does not apply to this action by reason of the Civil Practice Law and Rules Section 1602(7).

53. On October 20, 2015, the Surrogate's Court of the State of New York, New York County, issued letters of administration with limitations appointing Ayana Simmons to serve as the Administratrix of Idrissa Camara's estate.

54. By reason of the wrongful death of the Idrissa Camara, pecuniary damages for Mr. Camara's distributees are claimed.

SECOND CLAIM FOR RELIEF
Conscious Pain and Suffering

55. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

56. As a result of the negligent, careless, and reckless acts and omissions of Defendant and/or its agents, servants, representatives, and employees, including their reckless and conscious disregard of the obvious and known safety threat posed by Mr. Downing, Idrissa Camara suffered extended severe conscious pain, suffering, and agony prior to his death.

57. Mr. Camara would have had a cause of action for personal injuries sustained had death not ensued.

58. By reason of the conscious pain and suffering sustained during Mr. Camara's lifetime, damages are claimed.

THIRD CLAIM FOR RELIEF
Negligence

59. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

60. At all relevant times, Defendant and/or its agents, servants, representatives, and employees had a duty to exercise ordinary care with respect to Mr. Camara.

61. At all relevant times, Defendant and/or its agents, servants, representatives, and employees negligently, carelessly, and recklessly failed to uphold their duty of ordinary care toward Mr. Camara and failed to warn him and/or failed to instruct FJC to warn him of a lethal threat and danger to his life.

62. As a result of the negligent, careless, and reckless acts and omissions of Defendant and/or its agents, servants, representatives, and employees, including their reckless and conscious disregard of the obvious and known safety threat posed by Mr. Downing, Mr. Camara and his statutory distributees were deprived of his future earnings and services, and sustained pecuniary and non-economic loss resulting from the loss of his love, comfort, society, attention, services, and support.

63. As a result of the negligent, careless, and reckless acts and omissions of Defendant and/or its agents, servants, representatives, and employees, including their reckless and conscious disregard of the obvious and known safety threat posed by Mr. Downing, Mr. Camara's three children lost the parental nurture and care of their father and his wife lost the comfort, society, and attention of her husband.

WHEREFORE, Plaintiff respectfully requests that the Court grant it the following relief:

A. Damages of ten million dollars ($10,000,000);

B. Such other and further relief as this Court deems just, proper and equitable, together with all costs, fees, and disbursements relating to this proceeding.

Dated: February 13, 2017
New York, New York

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